

(j) Plans will not be required to warrant that a covered property complies with:

- (1) Original dwelling plans and specifications;
- (2) Applicable building codes; or
- (3) Specific terms of a homeowner's contract to purchase a property.

[55 FR 41021, Oct. 5, 1990, as amended at 61 FR 36264, July 9, 1996]

#### § 203.205 Plan coverage.

(a) Plan coverage must take effect at closing or settlement following the initial sale of the property to the homeowner.

(b) During the first year of coverage, a Plan must provide for a warranty against defects in workmanship and materials resulting from the failure of the covered property to comply with standards of quality as measured by acceptable trade practices, as well as correct the problems with, or restore the reliable function of, appliances and equipment damaged during installation or improperly installed by the builder. The plan must also cover structural defects as defined in § 203.200.

(c) During the first and second year of coverage, a Plan must provide a warranty against defects in the wiring, piping and ductwork in the electrical, plumbing, heating, cooling, ventilating, and mechanical systems.

(d) Basement slabs in designated areas must be covered by a warranty in the Plan against damage from the first through the fourth year.

(e) From the first through the tenth year, structural defect (as defined in § 203.200), except as provided in paragraph (d) of this section, must be covered by a warranty in the Plan.

(f) A Plan must provide insurance coverage for builder default on any warranty obligation.

The coverage described in paragraph (b) through (f) of this section is the minimum level of coverage that HUD will find acceptable in a Plan.

#### § 203.206 Housing performance standards or criteria.

A Plan may contain housing performance standards or criteria for resolution of homeowner claims or complaints that are fair, reasonable, and consistent with the intent of the Plan,

including Plan coverage under § 203.205. If a Plan contains such criteria or standards, they must be acceptable to the Secretary.

#### § 203.207 Designated area.

The Secretary may designate any part of the country as a "high risk area" where construction practices allow basement slabs to be placed on expansive or collapsible soil. By virtue of this authority, the Secretary has designated the State of Colorado as a "high risk area."

#### § 203.208 Insurance backing criteria.

An insurance company backing or operating a Plan must be duly licensed or approved (and with the Plan filed and approved where appropriate) to market such insurance coverage by the proper regulatory agency in each State in which the Plan will operate. Any company operating under the Product Liability Risk Retention Act of 1981, as amended, will be regarded as having met licensing, filing, and approval requirements of all States, but must first demonstrate that it—

(1) Meets licensing, filing and approval requirements in its domiciliary State; and

(2) Meets each of the requirements of paragraphs (A) through (H) of section (a)(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(a)(4) (A) through (H), (Supp. IV 1986).

(Approved by the Office of Management and Budget under control number 2502-0343)

#### § 203.209 Payments under a plan.

(a) If a Plan issuer or insurance backer elects to compensate a homeowner for damage suffered by the homeowner's property that is covered under a Plan in lieu of the Plan issuer's making repairs such compensation must be made jointly to the mortgagee and the homeowner.

(b) If payment is to be made to the mortgagee and homeowner, the Plan issuer first must receive the mortgagee's assurance in writing that the mortgagee is satisfied, based on a showing by the homeowner, that the homeowner has made a binding commitment to have the necessary repairs made to restore the damaged property. If a homeowner elects not to repair his